

No.

1. The Plaintiff, Daniel J. Spath, is an adult individual residing and domiciled at 2280 Old Pittston Blvd, Plains, Luzerne County, Pennsylvania 18702.

2. Upon information and belief, the Defendant, Hartt Transportation Systems, Inc., hereinafter referred to as "Hartt Transportation," is a domestic corporation in the State of Maine with a principal place of business at 262 Bomarc Road, Bangor, ME 04401.

3. Upon information and belief, the Defendant, Hartt Transportation, owns and operates terminals in Auburn, Maine and Sumter, South Carolina.

4. Additionally, Hartt Transportation services "all 48 contiguous states, Ontario, Quebec, and Maritime Canada." See www.hartt-trans.com.

5. The Defendant, Dana A. Wing, is an adult individual, who at all times relevant to this action was residing and domiciled at 125 Federal Row, Industry, ME 04938. At all times material hereto, the Defendant, Dana A. Wing, was acting within the scope of his employment and as an employee of the Defendant, Hartt Transportation.

JURISDICTION AND VENUE

6. The Defendant, Hartt Transportation, is a citizen and domiciliary of the State of Maine.

7. The Defendant, Hartt Transportation, is an active ICC carrier operating under USDOT # 184192 and MC # 151941 that regularly conducts

business throughout the northeast corridor, and including the Commonwealth of Pennsylvania.

8. The Defendant, Hartt Transportation, regularly conducts business in the Commonwealth of Pennsylvania and knowingly and intentionally conducts business in the Commonwealth of Pennsylvania.

9. The Defendant, Dana A. Wing, was the operator of the tractor trailer owned by the Defendant, Hartt Transportation, at the time of the accident herein, and was at all times material hereto a citizen and domiciliary of the State of South Carolina.

10. This Court has jurisdiction over the Defendants because the Defendants maintain significant contacts in the Middle District of Pennsylvania, and they continually and regularly conduct business in the Middle District of Pennsylvania, thereby making venue in the Middle District of Pennsylvania appropriate pursuant to 28 U.S.C.A. § 1391(a).

11. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §1332, because complete diversity of citizenship exists between the parties, and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

12. In addition, venue is proper in the Middle District pursuant to 28 U.S.C. §1391(b)(2) because the accident giving rise to this suit occurred

in Black Creek Township, Luzerne County, which is in the Middle District of Pennsylvania.

FACTS

13. On December 11, 2014, at approximately 12:27 a.m., while in the course and scope of his employment as a Pennsylvania State Police Trooper, the Plaintiff, Daniel J. Spath, was operating a 2013 Ford Police Interceptor bearing Pennsylvania License Plate No. 34380PA, which was then and there owned by the Pennsylvania Department of General Services, 2221 Forster Street, Harrisburg, PA 17103.

14. On that date, just prior to the collision at issue herein, the Plaintiff, Daniel J. Spath, acting in the course and scope of his employment as a Pennsylvania State Trooper, had responded to a one vehicle crash on Interstate 80 East at mile marker 250.1 in Black Creek Township, Luzerne County.

15. At that time, the Plaintiff, Daniel J. Spath, was standing outside his Ford Police Interceptor, near the vehicle that was standing at the shoulder of Interstate 80 Eastbound at mile marker 250.1 while he was speaking to the witness involved in the one-vehicle crash. Notably, the Plaintiff, Daniel J. Spath, had his emergency lights activated.

16. At that time, the traffic proceeding on Interstate 80 East near mile marker 250.1 had slowed in response to the one-vehicle accident to which the Plaintiff, Daniel J. Spath, had responded in his capacity as a Pennsylvania State Police Trooper.

17. On the aforementioned date and at the aforementioned time, the Defendant, Dana A. Wing, was acting within the course and scope of his employment with the Defendant, Hartt Transportation, and was operating a 2000 Freightliner Tractor hauling a 2016 Great Dane trailer, bearing South Carolina plate number P793273, with said tractor trailer being then and there owned by and registered to the Defendant, Hartt Transportation.

18. On the aforementioned date and at the aforementioned time, the Defendant, Dana A. Wing, was driving his tractor trailer eastbound on Interstate 80 in the area of mile marker 250.1 in Black Creek Township, Luzerne County.

19. On the aforementioned date and at the aforementioned time, the Defendant, Dana A. Wing, while in the course and scope of his employment with the Defendant, Hartt Transportation, was operating his tractor trailer and driving too fast for conditions,. The Defendant, Dana A. Wing, failed to properly slow in response to slowing traffic and caused his trailer to jack-knife. His trailer then collided with the Ford Police Interceptor, which then

struck the disabled vehicle to which the Plaintiff, Daniel J. Spath, had responded. Thereafter, the disabled vehicle struck the Plaintiff, Daniel J. Spath, at his legs, causing him to fall over the guardrail.

20. Upon information and belief, the Defendant, Dana A. Wing, was charged with violation of Pennsylvania Motor Vehicle Code Section 3361 – Driving Vehicle at Safe Speed.

21. Following the aforementioned motor vehicle crash, the Plaintiff, Daniel J. Spath, was taken via ambulance to Lehigh Valley Hospital – Hazleton for complaints of leg and hip pain.

22. As a direct and proximate result of the carelessness and negligence of the Defendants, Hartt Transportation and Dana A. Wing, jointly, severally, and jointly and severally, the Plaintiff, Daniel J. Spath, suffered the following injuries:

- a) Right knee sprain/strain with possible intrinsic knee pathology;
- b) Right leg pain and weakness;
- c) Right L5 radiculopathy;
- d) Chronic low back pain;
- e) Aggravation of pre-existing degenerative osteoarthritis/disc disease of the lumbosacral spine;

- f) Right leg pain;
- g) Emotional distress; and
- k) Pain and suffering.

23. As a result of the aforesaid injuries, the Plaintiff, Daniel J. Spath, has received medical treatment and incurred significant medical bills, the amounts of which will be provided in discovery, for which a claim is hereby made.

24. The Plaintiff, Daniel J. Spath, has been informed and therefore avers that his injuries are permanent in nature and will therefore require future medical care and treatment for which a claim is hereby made.

25. As a result of his injuries, the Plaintiff, Daniel J. Spath, was rendered sick, sore, disabled and sustained severe physical and mental pain, as well as great discomfort, and all of which required medical care and treatment as aforestated.

26. As a result of the aforesaid injuries and negligence of the Defendants, the Plaintiff, Daniel J. Spath, has sustained and will continue to sustain a loss of the everyday pleasures and enjoyments of life, a claim for which is hereby made.

27. As a result of the aforesaid injuries and negligence of the Defendants, the Plaintiff, Daniel J. Spath, has suffered and continues to

suffer a loss of income and loss of earnings capacity and power, a claim for which is hereby made.

WHEREFORE, the Plaintiff, Daniel J. Spath, hereby demands judgment against the Defendants, Hartt Transportation Systems, Inc. and Dana A. Wing, jointly, severally, jointly and severally, in an amount in excess of seventy-five thousand (\$75,000.00) dollars.

COUNT I

DANIEL J. SPATH

vs.

HARTT TRANSPORTATION SYSTEMS, INC. AND DANA A. WING

28. The Plaintiff, Daniel J. Spath, incorporates paragraphs 1 through 27, as though the same were fully set forth at length herein.

29. The aforementioned motor vehicle collision was caused as a result of the carelessness and negligence of the Defendant, Dana A. Wing, individually and vicariously, as an agent, ostensible agent, servant, workman, and/or employee of the Defendant, Hartt Transportation, with said carelessness and negligence consisting of, but not limited to, the following:

- a) In then and there operating his tractor trailer so as to cause it to impact the Ford Police Interceptor, which then impacted a previously-disabled vehicle, which then impacted the Plaintiff, Daniel J. Spath;
- b) In then and there failing to keep his tractor trailer under control thereby causing it to jack-knife and cause a chain

reaction collision wherein the Plaintiff, Daniel J. Spath, was struck in the legs and thrown over the guardrail;

- c) In then and there driving too fast for conditions when traffic in front of him was slowing;
- d) In then and there operating his vehicle in violation of Pennsylvania Motor Vehicle Code, in particular, Section 3361 – Driving Vehicle at Safe Speed;
- e) In then and there failing to remain attentive to the roadway and the pattern of traffic in front of his tractor trailer;
- f) In then and there failing to keep a reasonable lookout for hazards and other vehicles on the roadway;
- g) In then and there failing to have his vehicle under proper and adequate control under the circumstances;
- h) In then and there failing to use and/or apply brakes or take any other reasonable steps, including turning steering wheel to avoid the collision;
- i) In then and there operating his tractor trailer in such a manner so as to create a dangerous situation for other drivers and emergency personnel including the Plaintiff, Daniel J. Spath, while he was responding to a motor vehicle accident in the course and scope of his employment as a Pennsylvania State Police Trooper;
- j) In then and there failing to have his tractor trailer under such control that it could be slackened or stopped upon the assured clear distance ahead;
- k) In then and there failing to sound his horn or otherwise give warning that he was about to cause a multiple vehicle collision that struck the Plaintiff;

- l) In then and there failing to observe the vehicles in front of him until he was so close that he could not stop or otherwise avoid striking the vehicles in front of him;
- m) In then and there operating his tractor trailer in a manner not consistent with that which was permitted for vehicles then and there traveling on Interstate 80 East in Black Creek Township, Luzerne County.
- n) In then and there operating his tractor trailer in violation of Federal Motor Carrier Safety Regulations; and,
- o) In then and there violating the provisions of the Pennsylvania Motor Vehicle Code as more specifically set forth in paragraphs a) through o).

WHEREFORE, the Plaintiff, Daniel J. Spath, hereby demands judgment against the Defendants, Hartt Transportation Systems, Inc. and Dana A. Wing, jointly, severally, jointly and severally, in an amount in excess of seventy-five thousand (\$75,000.00) dollars.

COUNT II

DANIEL J. SPATH

vs.

HARTT TRANSPORTATION SYSTEMS, INC. AND DANA A. WING

30. The Plaintiff, Daniel J. Spath, incorporates paragraphs 1 through 29, as though the same were fully set forth at length herein.

31. The Defendant, Hartt Transportation Systems, Inc., is vicariously liable to the Plaintiff, Daniel J. Spath, for personal injury damages alleged in Paragraphs 1 through 29 of Plaintiff's Complaint,

incorporated herein by reference, for the negligence and carelessness of its employee, agent, and/or ostensible agent, Defendant, Dana A. Wing.

32. The Defendant, Hartt Transportation, is individually liable to the Plaintiff, Daniel J. Spath, for the following:

- a) In then and there hiring the Defendant, Dana A. Wing, when they knew or should have known he was not qualified to safely operate a tractor trailer engaged in interstate commerce;
- b) In then and there engaging the services of the Defendant, Dana A. Wing, as a driver, when they knew or should have known he was not qualified to safely operate a tractor trailer;
- c) In then and there failing to adequately train, supervise, and/or instruct the Defendant, Dana A. Wing, in a manner so as to properly and safely operate the tractor trailer he was driving on the date of the accident;
- d) In then and there allowing the Defendant, Dana A. Wing, to remain in the employ of Hartt Transportation when it knew or should have known he was not qualified to safely operate a tractor trailer;
- e) In then and there failing to have and/or enforce its own policies, procedures, and/or protocols concerning the operation of vehicles owned and/or used by the company;
- f) In then and there failing to have and/or enforce its own policies, procedures and/or protocols concerning the training and supervision of its drivers, including the Defendant, Dana A. Wing;
- g) In then and there failing to enforce Department of Transportation regulations concerning the hours and distance that its drivers are permitted to be on the road;

- h) In then and there failing to enforce its own procedures concerning the amount of hours and distances which its drivers may be on the road;
- j) In then and there failing to inspect and/or enforce Department of Transportation and/or internal safety regulations and procedures for the tractor, trailer and load being utilized and carried by the Defendant, Dana A. Wing, on the date of the accident.

WHEREFORE, the Plaintiff, Daniel J. Spath, hereby demands judgment against the Defendants, Hartt Transportation Systems, Inc. and Dana A. Wing, jointly, severally, jointly and severally, in an amount in excess of seventy-five thousand (\$75,000.00) dollars.
dollars.

Respectfully submitted,

ANZALONE LAW OFFICES

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VERIFICATION

I, DANIEL SPATH, Plaintiff herein, certify that the statements contained in the foregoing Complaint are true and correct and are made subject to the penalties of 18 Pa. C.S.A. Section 4904, relating to unsworn falsification to authorities.



DANIEL SPATH